

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ALLEN R. HOLSINGER and U.S. POSTAL SERVICE,
POST OFFICE, Tipp City, OH

*Docket No. 00-1727; Submitted on the Record;
Issued April 9, 2001*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has established that he sustained a stress-related condition in the performance of duty causally related to factors of his federal employment.

This case is before the Board for the second time. In the first appeal, the Board found that the employing establishment's denial of appellant's request for sick leave on March 16, 1993 constituted error in an administrative function and, therefore, a compensable factor of employment. The Board remanded the case for the Office of Workers' Compensation Programs to prepare a statement of accepted facts and obtain a report from Dr. Mark J. Peters, appellant's attending physician who is Board-certified in family practice, regarding whether he sustained a stress-related condition causally related to the compensable factors of employment. The findings of fact and conclusions of law from the prior decision are hereby incorporated by reference.¹

By letter dated May 13, 1997, the Office noted that Dr. Peters had treated appellant for transient global amnesia and a stroke and requested that he discuss the relationship between appellant's condition and factors of his federal employment. The Office provided Dr. Peters with a statement of accepted facts to use as a reference.

Appellant submitted a June 5, 1997 report from Dr. Peters, which the Office received on June 17, 1997.

By decision dated June 19, 1997, the Office denied appellant's claim on the grounds that the medical evidence was insufficient to establish that he sustained a stress-related condition causally related to factors of his federal employment. The Office found that Dr. Peters had not replied to its request for information.

¹ *Alan R. Holsinger*, Docket No. 95-1252 (issued April 16, 1997).

In a letter received by the Office on January 5, 2000, appellant, through his representative, requested reconsideration of his claim. By decision dated February 28, 2000, the Office vacated its June 19, 1997 decision on the grounds that it was issued without consideration of Dr. Peters' June 5, 1997 report.² The Office reviewed Dr. Peters' report and found that it was insufficient to establish that appellant sustained any condition causally related to the accepted employment factor.

The Board finds that the case is not in posture for decision.

In this case, the Board remanded the case for the Office to obtain an opinion from Dr. Peters, appellant's attending physician, regarding whether he sustained a stress-related condition causally related to the identified compensable factor of employment. The report from Dr. Peters, however, is of limited probative value on the pertinent issue and therefore the case requires additional development of the evidence.

In a report dated June 5, 1997, Dr. Peters related that appellant's neurologist, Dr. Ravindra Kitchener, treated him on April 25, 1993 for "the abrupt onset of disorientation and confusion." Dr. Peters related:

"The diagnosis at that time was transient global amnesia exacerbated by hypertension and stress. [Appellant] stated that he had been under an extreme amount of stress at work due to conflicts with the supervisor. Since that time, he has been followed by Dr. Kitchener. He occasionally had disorientation and confusion for the following two years. He stated that he had forgotten certain things at certain times. He also states that he experiences severe anxiety and stress in relationship to his consideration of returning to work.

"I feel that the anxiety and stress associated with his work situation was a contributing factor to his symptoms. He had been followed closely in the office until May 20, 1996. At that time, I left my practice to assume an administrator position within our hospital system. He has not been seen in our office since that time. I cannot assess his current physical status due to that fact.

"In summary, [appellant] had an acute episode of transient global amnesia. No objective specific causes of this could be found, but it was felt [by] both myself and Dr. Kitchener that his stress at work was a contributing factor."

Proceedings under the Act are not adversarial in nature nor is the Office a disinterested arbiter. While the claimant has the burden to establish entitlement to compensation, the Office shares responsibility in the development of the evidence and has the obligation to see that justice is done. Accordingly, once the Office undertakes development of the medical evidence, it has the responsibility to do so in the proper manner.³

² The Office further noted that it had failed to send appellant's representative a copy of its June 19, 1997 decision.

³ *John W. Butler*, 39 ECAB 852 (1988).

In this case, Dr. Peters generally found that stress at work contributed to appellant's transient global amnesia but did not make reference to the statement of accepted facts or provide any rationale in support of his opinion. Dr. Peters further indicated that he could not provide an opinion on appellant's current condition because he had stopped attending patients in May 1996. As the Office sought the opinion of Dr. Peters, it has the responsibility to obtain a report that adequately addresses the issue presented in the case.⁴ On remand, the Office should secure a medical report containing a reasoned medical opinion on the relevant issue of whether appellant's transient global amnesia was caused or aggravated by the identified compensable factor of employment.⁵

The decision of the Office of Workers' Compensation Programs dated February 28, 2000 is set aside and the case is remanded for further proceedings consistent with this opinion of the Board.

Dated, Washington, DC
April 9, 2001

David S. Gerson
Member

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member

⁴ See *Mae Z. Hackett*, 34 ECAB 1421 (1983).

⁵ After a claims examiner requests clarification of an issue from an attending physician, the Office's procedure manual provides, "The CE [claims examiner] must ensure, however, that the attending physician's reply really does dispose of the issue." Federal (FECA) Procedure Manual, Part 2 -- Claims, *Developing and Evaluating Medical Evidence*, Chapter 2.810.8(a) (April 1993).